

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DISABILITY SUPPORT
ALLIANCE, ON BEHALF OF ITS
MEMBERS; AND MELANIE DAVIS,

PLAINTIFFS,

V.

KAH 20 2ND AVENUE LLC, KAHLER
HOTELS LLC,

DEFENDANTS.

CASE NO. 0:15-CV-01491-MJD-SER

RULE 26(f) REPORT

The parties/counsel identified below conferred as required by Fed. R. Civ. P. 26(f) and the Local Rules, on **May 5, 2015**, and prepared the following report.

The initial pretrial conference required under Fed. R. Civ. P. 16 and LR 16.2 is scheduled for **Tuesday, May 12, 2015 at 9:30 a.m.**, before the United States Magistrate Judge Steven E. Rau in Room 334, of the U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota. The parties do not request that the conference be held by telephone.

(a) Description of the Case.

(1) Concise factual summary of plaintiff's claims:

Plaintiffs allege that Defendants' public accommodation violates Title III of the Americans With Disabilities Act and corresponding provisions of the Minnesota Human Rights Act. Specifically, Plaintiffs allege that Defendants' hotel lacks a sufficient number of ADAAG-compliant guest rooms and that the accessible room Defendants did offer Plaintiffs was not ADAAG-compliant in several respects.

(2) Concise factual summary of defendant's claims/defenses:

Defendants assert the proper number of ADA compliant rooms exist and an ADA compliant room was available to the guests on the night in question.

(3) Statement of jurisdiction (including statutory citations):

Jurisdiction of this Court arises under 28 U.S.C. §§ 1331 and 1343(a)(3). This action includes federal law claims brought pursuant to Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181–12189. The Court may exercise supplemental jurisdiction over Plaintiffs’ nonfederal law causes of action, violations of the Minnesota Human Rights Act, Minn. Stat. Chapter 363A, and the Minnesota Bias Offense statutes, Minn. Stat. Chapter 611A.79, because the claims asserted in this action arise from a common nucleus of operative fact. The Court has the jurisdiction to issue a declaratory judgment pursuant to 28 U.S.C. § 2201 and Fed R. Civ. P. 57.

(4) Summary of factual stipulations or agreements:

There are no factual stipulations or agreements.

(5) Statement of whether a jury trial has been timely demanded by any party:

Defendants have demanded a jury trial on all issues so triable.

(6) Statement as to whether the parties agree to resolve the matter under the Rules of Procedure for Expedited Trials of the United States District Court, District of Minnesota, if applicable:

Not applicable.

(b) Pleadings.

Statement as to whether all process has been served, all pleadings filed and any plan for any party to amend pleadings or add additional parties to the action:

All process has been served and pleadings have been filed. The parties request until September 1, 2015 for any amendments to the pleadings.

(c) Fact Discovery.

The parties recommend that the Court establish the following fact discovery deadlines and limitations:

The parties must make their initial disclosures under Fed. R. Civ. P. 26(a)(1) on or before **June 19, 2015**.

The parties must complete any physical or mental examinations under Fed. R. Civ. P. 35 by **February 1, 2016**.

The parties must commence fact discovery procedures in time to be completed by **November 1, 2015**.

The parties propose that the Court limit the use and numbers of discovery procedures as follows:

- (A) **25** interrogatoires, including subparts;
 - (B) **25** document requests;
 - (C) **5** each factual depositions;
 - (D) **10** requests for admissions;
 - (E) **1** Rule 35 medical examinations; and
 - (F) **N/A** other.
- (d) Expert Discovery.
- (1) The parties anticipate that they will require expert witnesses at the time of trial.
 - (A) The plaintiff anticipates calling **3** experts
 - (B) The defendant anticipates calling **2** experts
 - (2) The parties propose that the Court establish the following plan for expert discovery:
 - (A) Initial experts.
 - (i) The identity of any expert who may testify at trial regarding issues on which the party has the burden of persuasion must be disclosed on or before **November 2, 2015 (plaintiffs) and December 18, 2015 (defendants)**.
 - (ii) The initial expert written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before **November 2, 2015 (plaintiffs) and December 18, 2015 (defendants)**.
 - (B) Rebuttal experts.
 - (i) The identity of any experts who may testify in rebuttal to any initial expert must be disclosed on or before **January 15, 2016 (plaintiffs) and February 19, 2016 (defendants)**.

- (ii) Any rebuttal expert's written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before **January 15, 2016 (plaintiffs) and February 19, 2016 (defendants)**.

(3) All expert discovery must be completed by **February 19, 2016**.

(e) Other Discovery Issues.

- (1) Protective Order. **The parties have discussed the need for a protective order and do not believe one is necessary at this time. If a protective order is necessary later, the parties will work to create an applicable order and submit the proposed proactive order to the Court. The parties agree to use Form 6 as a template for a proposed protective order.**

(The parties are encouraged, though not required, to use Form 6 as a template for a proposed protective order.)

- (2) Discovery of Electronically Stored Information. The parties have discussed issues about disclosure or discovery of electronically stored information as required by Fed. R. Civ. P. 26(f), including the form or forms in which it should be produced and inform the Court of the following agreements or issues: **Parties agree to abide by the Federal Rules of Civil Procedure.**
- (3) Claims of Privilege or Protection. The parties have discussed issues about claims of privilege or of protection as trial-preparation materials as required by Fed. R. Civ. P. 26(f), including whether the parties agree to a procedure to assert these claims after production and request the Court to include the following agreement in the scheduling order: **Parties agree to abide by the Federal Rules of Civil Procedure.**

(f) Proposed Motion Schedule.

The parties propose the following deadlines for filing motions:

Motions seeking to join other parties must be filed and served by **September 1, 2015**.

Motions seeking to amend the pleadings must be filed and served by **September 1, 2015**.

All other non-dispositive motions must be filed and served by **February 19, 2016**.

All dispositive motions must be filed and served by **March 1, 2016**.

(g) Trial-Ready Date.

- (1) The parties agree that the case will be ready for trial on or after **June 1, 2016**.

(2) The parties propose that the final pretrial conference be held on or before **May 15, 2016**

(h) Insurance Carriers/Indemnitors.

List all insurance carriers/indemnitors, including limits of coverage of each defendant or statement that the defendant is self-insured. **None.**

(i) Settlement.

The parties have agreed to submit their confidential positions with regard to settlement to the Court in compliance with the Court's order.

(j) Trial by Magistrate Judge.

The parties **have not** agreed to consent to jurisdiction by the Magistrate Judge under 28 U.S.C. § 636(c). (If the parties agree to consent, file the consent with the Rule 26(f) Report.)

CLASS JUSTICE, PLLC.

Dated: May 5, 2015

By: /s/ Paul R. Hansmeier

Paul R. Hansmeier (#0387795)
100 South Fifth Street, Suite 1900
Minneapolis, MN 55402
Telephone: 612-234-5744
Facsimile: 612-326-9802

Attorneys for Plaintiffs

DUNLAP & SEEGER, P.A.

Dated: May 5, 2015

By: /s/ Ken D. Schueler

Ken D. Schueler (#190378)
30 – 3rd Street SE, Suite 400
P.O. Box 549
Rochester, MN 55903-0549
Telephone: 507-288-9111
Facsimile: 507-288-9342

Attorneys for Defendants

